

MEMO ENDORSED



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August 24, 2021

Via Electronic Case Filing

Hon. Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Ramirez v. 400 West 23rd Street Restaurant Corp. et al.*
Case No.: 1:19-cv-10571 (VEC)

Your Honor:

This firm represents the Plaintiff in the above-referenced wage and hour matter against Defendants. We write, jointly with Defendants, to update the Court on the status of settlement and to request an adjournment of the status conference currently scheduled for August 27, 2021.

Based upon *Mei Xing Yu v. Hasaki Rest., Inc.*, 944 F.3d 395 (2d Cir. 2019), the parties do not intend to submit a settlement agreement requesting Court approval and instead will resolve this case *via* a Rule 68 offer of judgment to Plaintiff. The Court is respectfully referred to *Malea v. Six Ten Mgmt. Corp.*, No. 19-CV-6346 (VSB), 2021 U.S. Dist. LEXIS 39742 (S.D.N.Y. Mar. 2, 2021), wherein parties reported a settlement to the Court, the Court then directed submission of a *Cheeks* application, and the parties subsequently filed an accepted Rule 68 offer instead; *see also*, *Torres v. HWF Realty Mgmt.*, 2020 U.S. Dist. LEXIS 36735 (S.D.N.Y. Mar. 2, 2020), *Espindola v. Pizza Stop Corp.*, No. 19-cv-1026 (VSB), 2021 U.S. Dist. LEXIS 8012 (S.D.N.Y. Jan. 14, 2021), and *Dellamedaglia v. Zemak LLC*, No. 20-cv-6753 (VSB), 2021 U.S. Dist. LEXIS 13329 (S.D.N.Y. Jan. 25, 2021), all of which held that *Mei Xing Yu* had set down a bright line rule.

In light of the parties' intended course of action as to settlement and the fact that counsel for the parties are out on a prescheduled vacation on August 27, 2021, we ask that the Court adjourn the status conference to September 17, 2021, giving the parties enough time to finalize the settlement agreement (not subject to *Cheeks* review) related to the offer of judgment in this case. We thank the Court for its attention and consideration to this request.

Respectfully Submitted,


/s/

Louis M. Leon, Esq.

Application GRANTED.

The status conference currently scheduled for Friday, August 27, 2021 at 10:00 A.M. is hereby adjourned to **Friday, September 17, 2021 at 11:00 A.M.** All parties and any interested members of the public must attend by dialing 1-888-363-4749, using the access code 3121171, and the security code 0571. All attendees are advised to mute their phones when not speaking and to self-identify each time they speak. Recording or rebroadcasting the proceeding is strictly prohibited by law.

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Valerie Caproni", is written over the printed name.

Date: August 24, 2021

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE